

## Message Text

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ORIGIN OES-04

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P 232309Z MAY 75

FM SECSTATE WASHDC

TO AMEMBASSY CAIRO PRIORITY

S E C R E T STATE 121617

E.O. 11652: GDS

TAGS: TECH EG ENRG

SUBJECT: NUCLEAR COOPERATION AGREEMENT

REF: (A) SECTO 1018; (B) SECTO 1048

1. AS PROMISED IN PARA 3 OF REF A, WE ARE PROVIDING COMMENTS ON SECOND AND THIRD EGYPTIAN NOTES OF AUGUST AND NOVEMBER 1974. EMBASSY WILL NOTE, THAT, SINCE WE REGARD THESE RESPONSES AS TECHNICAL COMMUNICATIONS, THEY DO NOT COMMENT SUBSTANTIVELY ON ISSUE RAISED AT SEVERAL POINTS IN DR. EL-GUEBEILY'S NOTES, OF APPLICATION OF SAFEGUARDS TO ALL OF ISRAEL'S NUCLEAR FACILITIES. SUCH RESPONSE ON U.S. PART DOES NOT, OF COURSE, IMPLY ANY MODIFICATION OF U.S. POSITION RE SAFEGUARDS COVERAGE OF EITHER ISRAELI OR EGYPTIAN AGREEMENT. U.S. VIEWS ON THIS ISSUE ARE WELL KNOWN AND WE DO NOT CONSIDER IT NECESSARY OR APPROPRIATE TO REITERATE THEM IN THESE ESSENTIALLY TECHNICAL COMMUNICATIONS. EMBASSY SHOULD ENSURE THAT THIS POINT IS CLEAR TO EGYPTIANS. TEXTS FOLLOWS:

BEGIN TITLE. RESPONSE TO DR. EL-GUEBEILY'S NOTE OF  
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AUGUST 27, 1974 (SECOND NOTE). END TITLE. BEGIN TEXT.

BEGIN 1. SOURCE MATERIAL PRODUCED IN EGYPT BY A JOINT VENTURE BETWEEN UNITED STATES COMPANIES AND EGYPT WOULD NOT BE SUBJECT TO ARTICLE VIII C. SOLELY BECAUSE OF THE

JOINT VENTURE ITSELF. SUCH MATERIAL WOULD HAVE TO

BECOME SUBJECT TO ARTICLE X, XI OR XII OF THE AGREEMENT  
IN ORDER TO COME WITHIN THE SCOPE OF ARTICLE VIII C.

REFERENCES IN ARTICLE X TO MATERIAL OTHER THAN SPECIAL  
NUCLEAR MATERIAL ARE ONLY WITH RESPECT TO THAT TRANS-  
FERRED TO EGYPT. HENCE, SOURCE MATERIAL PRODUCED IN  
EGYPT WOULD NOT AUTOMATICALLY BE COVERED BY THE ARTICLE  
UNLESS THE PARTIES SO AGREED OR UNLESS THE SOURCE MATER-  
IAL, HAVING BEEN SENT TO THE U.S., WAS TRANSFERRED BACK  
TO EGYPT UNDER THE AGREEMENT, THEREBY SUBJECTING IT TO  
THE AGREEMENT.

THE PERTINENT PROVISIONS ARE ARTICLE XI, PARAGRAPHS B(1)  
AND (2). THE REFERENCE IN B(1) AND THE FIRST REFERENCE  
IN B(2) ARE TO SOURCE MATERIAL MADE AVAILABLE UNDER THE  
AGREEMENT AND WOULD NOT ENCOMPASS SOURCE MATERIAL PRO-  
DUCED IN EGYPT WHICH WAS NOT BROUGHT INTO THE U.S. AND  
THEREAFTER SUBJECTED TO THE AGREEMENT. THE SECOND  
REFERENCE IN B(2) IS TO SOURCE MATERIAL WHICH MIGHT BE  
UTILIZED IN, RECOVERED FROM, OR PRODUCED AS A RESULT OF  
THE USE OF ANY OF THE MATERIALS (INCLUDING SOURCE  
MATERIAL), EQUIPMENT OR DEVICES OBTAINED FROM THE U.S.  
AS LISTED IN THE SUBPARAGRAPHS (A), (B) AND (C). SUCH  
SOURCE MATERIAL WOULD BE SUBJECT TO THE CONTROLS IN  
ARTICLE VIII C. WHETHER PRODUCED IN EGYPT OR OBTAINED  
ELSEWHERE AND WHETHER UTILIZED IN A U.S.-SUPPLIED OR  
A NON-U.S. REACTOR.

ARTICLE XII PROVIDES FOR THE IAEA TO ASSUME RESPONSIBILITY  
FOR APPLYING SAFEGUARDS TO ENSURE THAT MATERIALS AND  
FACILITIES SUBJECT TO THE AGREEMENT WILL BE USED SOLELY  
FOR PEACEFUL PURPOSES. THE SOURCE MATERIAL ENCOMPASSED  
BY THIS ARTICLE, THEREFORE, WOULD BE THAT SUBJECT TO THE  
AGREEMENT. TO BECOME SUBJECT TO THE AGREEMENT, THE  
SOURCE MATERIAL WOULD EITHER HAVE TO HAVE BEEN TRANS-  
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FERRED TO EGYPT UNDER THE AGREEMENT OR COME WITHIN  
THE SCOPE OF THE SECOND REFERENCE IN ARTICLE XI B.(2)  
DISCUSSED ABOVE.

THE U.S. THUS BELIEVES IT IS CLEAR THAT SOURCE MATERIAL  
PRODUCED IN EGYPT BY A JOINT VENTURE INVOLVING U.S.  
COMPANIES DOES NOT SOLELY BY VIRTUE OF THAT INVOLVE-  
MENT COME WITHIN THE SCOPE OF THE AGREEMENT NOR,  
THEREFORE, THE SCOPE OF ARTICLE VIII C; ADDITIONAL  
FACTORS MUST APPLY AS INDICATED ABOVE. FOR THIS REASON,  
THE U.S. BELIEVES THAT NO REVISION IN THE TEXT IS RE-  
QUIRED. END 1.

BEGIN 2. THE U.S. BELIEVES THAT THE OPTION WHICH WOULD BE GIVEN TO THE U.S. BY ARTICLE VIII D. TO TAKE TITLE TO AND TO EFFECT THE DISPOSITION OF PRODUCED SPECIAL NUCLEAR MATERIAL, IS NECESSARY TO ASSURE THAT SUCH MATERIAL MAY BE EXCLUDED OR REMOVED FROM, THE AREA IN THE EVENT THE U.S. BELIEVES THAT CIRCUMSTANCES REQUIRE SUCH ACTION.

THE PROVISION CALLS FOR APPROPRIATE COMPENSATION BY THE U.S. IN THE EVENT THE OPTION SHOULD BE EXERCISED. THE BASIS FOR SUCH COMPENSATION COULD BE EXPECTED TO INCLUDE CONSIDERATION OF THE COMMERCIAL FUEL VALUE OF PLUTONIUM WHEN UTILIZED AS FUEL IN A LIGHT-WATER REACTOR. THE U.S. WOULD BE UNABLE TO UNDERTAKE A COMMITMENT TO PURCHASE ANY AND ALL OF THE PRODUCED PLUTONIUM SINCE THIS GUARANTEED MARKET WOULD GIVE EGYPTIAN PRODUCED PLUTONIUM A PREFERENTIAL POSITION VIS-A-VIS PLUTONIUM PRODUCED IN OTHER REACTORS FUELED OR SUPPLIED BY THE U.S., INCLUDING OUR DOMESTIC REACTORS. END 2.

BEGIN 3. THE U.S. AGREES WITH THE CONCEPT OF COOPERATION IN THE ELABORATION OF A SUITABLE PHYSICAL SECURITY SYSTEM AND, ALTHOUGH IT CANNOT UNDERTAKE TO PROVIDE EQUIPMENT AND TRAINING AT ITS EXPENSE, WOULD BE PREPARED TO LEND ASSISTANCE TO THE RESPONSIBLE EGYPTIAN AUTHORITIES IN OBTAINING THEM IF THAT PROVES NECESSARY.

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DURING THE AUGUST 15, 1974 DISCUSSIONS, THE U.S. PARTICIPANTS UNDERSTOOD THE CONCERN OF THE EGYPTIAN SIDE TO BE THE POSSIBILITY OF TERMINATION BY THE U.S. IF IT SHOULD DECIDE AT SOME POINT IN TIME THAT THE PHYSICAL SECURITY THEN IN EFFECT WAS INADEQUATE. INITIALLY, OF COURSE, AS STATED IN THE NOTE, PHYSICAL SECURITY ARRANGEMENTS WOULD BE AGREED UPON BEFORE THE TRANSFER OF MATERIAL OR EQUIPMENT WHICH WOULD REQUIRE PROTECTION. AFTER AGREEMENT UPON THESE INITIAL MEASURES, THE CONCERN OF THE U.S. WOULD BE THEIR EFFECTIVE IMPLEMENTATION AND THE NEED FOR REVISION OF THE MEASURES TO TAKE ACCOUNT OF CHANGED CIRCUMSTANCE UNDER WHICH THE INITIAL SYSTEM WOULD BE INADEQUATE. IN SUCH EVENT, THE U.S., WHILE NOT DESIRING TO BE ARBITRARY, WOULD WISH THE MEASURES TO BE REVIEWED AND MODIFIED IN ORDER TO CONTINUE COOPERATIVE ACTIVITIES. SIMILARLY, EGYPT MIGHT HAVE REASON TO REQUEST A REVIEW AND REVISION OF THE AGREED MEASURES. THE U.S., THEREFORE, SUGGESTS THE FOLLOWING REVISION OF ARTICLE VIII F: "AS USED IN THIS SUBPARAGRAPH "EFFECTIVE PHYSICAL SECURITY" MEANS MEASURES TO ENSURE THAT NUCLEAR MATERIALS, EQUIPMENT,

AND DEVICES WILL BE PROTECTED FROM USES NOT AUTHORIZED BY THE GOVERNMENT OF EGYPT AND FROM THEFT OR SABOTAGE, WHICH MEASURES SHALL, IN THE OPINION OF BOTH PARTIES, BE SUFFICIENT TO PREVENT SUCH UNAUTHORIZED USE, THEFT OR SABOTAGE UNDER ANY CIRCUMSTANCES WHICH MAY REASONABLY BE FORESEEN. THE GOVERNMENT OF EGYPT GUARANTEES THAT EFFECTIVE PHYSICAL SECURITY WILL BE MAINTAINED WITH RESPECT TO ALL MATERIALS, EQUIPMENT, AND DEVICES WHICH ARE SUBJECT TO ARTICLE X OF THIS AGREEMENT. THE AGREED MEASURES AND THEIR IMPLEMENTATION SHALL BE REVIEWED BY THE PARTIES FROM TIME TO TIME, AND WHENEVER EITHER PARTY IS OF THE VIEW THAT A REVISION MAY BE REQUIRED TO MAINTAIN EFFECTIVE PHYSICAL SECURITY. IT IS RECOGNIZED BY THE PARTIES THAT CONTINUED COOPERATION UNDER THIS AGREEMENT IS PREDICTED UPON THE MAINTENANCE BY THE GOVERNMENT OF EGYPT OF EFFECTIVE PHYSICAL SECURITY."END 3.

BEGIN 4. THE U.S. WELCOMES THE AFFIRMATIVE ATTITUDE OF THE GOVERNMENT OF EGYPT TOWARD THE GENERAL PRINCIPLE  
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INCORPORATED IN THE THIRD PARAGRAPH OF THE NOTE ATTACHED TO THE AGREEMENT FOR COOPERATION, IN A RESPONSE TO THE ISSUE RAISED, HOWEVER, THIS ISSUE IS OUTSIDE THE SCOPE OF THIS TECHNICAL COMMUNICATION. END 4.

BEGIN GENERAL POINTS. NOTE HAS BEEN TAKEN OF EGYPT'S POSITION REGARDING RATIFICATION OF THE NON-PROLIFERATION TREATY. COMMENTS UPON THE SECOND AND THIRD POINTS ARE CONTAINED IN THE RESPONSES TO THE THIRD EGYPTIAN NOTE. END GENERAL POINTS. END SECOND NOTE.

BEGIN TITLE. RESPONSE TO DR. EL-GUEBEILY'S NOTE OF NOVEMBER 2, 1974 (THIRD NOTE). END TITLE. BEGIN TEXT.  
(THE NUMBERING OF THE FOLLOWING COMMENTS ACCORDS WITH THAT USED IN DR. EL-GUEBEILY'S NOTE.)

POINTS 1 THROUGH 5. APART FROM EDITORIAL MATTERS SUCH AS PUNCTUATION, THE U.S. CONCURS.

POINT 8(B). THE PURPOSE OF ARTICLE XI(C) IS TO ASSURE COMPLIANCE WITH THE PROVISIONS REFERENCED THEREIN WITH RESPECT TO MATERIALS, EQUIPMENT AND DEVICES WHICH ARE SUBJECT TO THE AGREEMENT FOR COOPERATION. A COMPARABLE PROVISION FOR THIS PURPOSE IS INCLUDED IN OTHER AGREEMENTS FOR COOPERATION AND IS CONSIDERED BY THE U.S. TO BE AN IMPORTANT ELEMENT IN THE STRUCTURE OF THE AGREEMENTS. IN OUR VIEW, ARTICLE XI(C) IS NOT DIRECTLY RELATED TO THE QUESTION OF THE APPLICATION OF SAFEGUARDS TO ALL NUCLEAR MATERIALS AND EQUIPMENT CURRENTLY PRESENT

IN EGYPT AND ISRAEL, AS WELL AS THOSE WHICH WILL BE RE-

CEIVED IN THE FUTURE. AS INDICATED IN OUR RESPONSE TO POINT 11, CONSIDERATION OF THIS QUESTION IS OUTSIDE THE SCOPE OF THIS COMMUNICATION.

POINT 8(C). THE U.S. POLICY IS ONE OF COMPARABILITY, PARTICULARLY WITH RESPECT TO SAFEGUARDS AND CONTROLS. AT SUCH TIME AS THE NEGOTIATIONS WITH EGYPT AND ISRAEL REACH THE STAGE OF NEAR-COMPLETION, THE U.S. WILL BE PREPARED TO DISCUSS WITH BOTH EGYPT AND ISRAEL THE TEXTS OF THE DRAFT AGREEMENTS TO ESTABLISH WHETHER  
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THE LANGUAGE OF THE AGREEMENTS NEED BE MADE IDENTICAL IN ALL RESPECTS IN ORDER TO SATISFY THE GOAL OF COMPARABILITY IN SUBSTANCE.

POINT 9. NO FURTHER COMMENT REQUIRED.

POINT 7. THE PROPOSAL FOR THE USE OF THE 1200 MWE FIGURE IN ARTICLE IX HAS BEEN NOTED AND IS UNDER STUDY.

POINT 10. THE SUGGESTION FOR THE TERM OF THE AGREEMENT WHICH THE U.S. PREVIOUSLY MADE WAS FOR 30 YEARS FROM THE DATE OF THE FIRST DELIVERY OF MATERIAL UNDER THE SUPPLY CONTRACT, WHICH DATE IS FEBRUARY 1, 1980. THIS TERM WOULD COVER THE MAXIMUM PERIOD OF SUPPLY UNDER THE CONTRACT FOR THE SUPPLY OF ENRICHMENT SERVICES. ALTERNATIVELY, THE U.S. WOULD BE PREPARED TO USE A TERM FOR THE AGREEMENT OF 40 YEARS FROM THE DATE ON WHICH IT BECOMES EFFECTIVE. THIS IS THE LONGEST TERM WHICH THE U.S. HAS USED IN OTHER SUCH AGREEMENTS.

POINTS 6 AND 8(A). THE U.S. APPRECIATES THE CONTINUING CONCERN OF THE EGYPTIAN SIDE FOR THE ECONOMIC OPERATION OF NUCLEAR POWER PLANTS SUBJECT TO THE AGREEMENT BUT IS UNABLE TO UNDERTAKE ANY COMMITMENT TO ENSURE SUCH OPERATION UNDER THE AGREEMENT BEYOND THESE INCLUDED OR IMPLIED IN THE AGREEMENT AND ASSOCIATED DIPLOMATIC NOTE. AS AN EXAMPLE OF THE LATTER, THE WILLINGNESS OF THE U.S. TO CONSIDER THE TRANSFER OF PLUTONIUM FROM THE U.S. IN THE FORM OF FABRICATED FUEL ELEMENTS.

POINT 11. EGYPT'S POSITIVE STAND TOWARD THE NPT IS APPRECIATED BY THE U.S. A DETAILED DISCUSSION OF THIS POINT HOWEVER IS OUTSIDE THE SCOPE OF THIS TECHNICAL RESPONSE. END THIRD NOTE.

3. EMBASSY IS REQUESTED TO TRANSMIT NOTES ASAP AND SPECIFICALLY PRIOR TO JUNE 1 PRESIDENTIAL MEETING. INGERSOLL

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<< END OF DOCUMENT >>

## Message Attributes

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